

**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

RECORDED  
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**FILE:** B-217155

**DATE:** March 18, 1985

**MATTER OF:** Bartow Group

**DIGEST:**

Where protester has not presented evidence to overcome contracting agency's determination that potential contractors located beyond 30-mile radius from contract site would be unable to satisfactorily perform contract for architect and engineer services and where adequate competition exists within 30-mile area, GAO cannot conclude that 30-mile restriction is without a reasonable basis.

Bartow Group (Bartow) protests as unduly restrictive of competition the requirement that the successful contractor under Department of Energy (DOE) project No. B-513 have an adequately staffed established office within a 30-mile radius of Richland, Washington. The project encompasses architectural and engineering (A/E) services relating to transportation improvements at DOE's Richland operations office. The federal procurement of A/E services is governed by the Brooks Act, 40 U.S.C. § 541, et seq. (1982).

We deny the protest.

Bartow maintains that many A/E firms in the Seattle and Spokane, Washington, areas, including Bartow, would have representatives drive or fly the approximately 150 miles from these locations to Richland to perform the requirement and that the DOE restriction is "tantamount to protectionism" of the A/E firms in the Richland area.

DOE responds that a local A/E firm is necessary because the firm must work closely with engineering personnel on two other DOE Richland site projects. DOE states that there will be numerous meetings during project performance between all engineering personnel involved. DOE further states that, while the B-513 design project is relatively simple, it anticipates that it will be necessary for the B-513 A/E personnel to implement numerous design changes in order to accommodate design problems which surface in the other two

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projects. For instance, the design of new facilities under those two projects will affect the design of roadways adjacent to those facilities under the B-513 project and the B-513 A/E team will be needed to make immediate decisions concerning design changes. DOE thus concludes that a distantly located A/E firm would not satisfy the agency's need that A/E personnel be immediately available to respond to such problems.

Further, DOE states that the B-513 project, which is to begin in the spring of 1985, must be completed prior to inclement winter weather. Therefore, use of a local A/E firm will eliminate delays caused by the need to travel to the Richland area. Such delays would result in postponing meetings, design decisions, and ultimately delay the completion of the project.

Finally, DOE points out that qualification statements from 12 Richland area A/E firms capable of performing the project were on file with the agency prior to the issuance of the Commerce Business Daily (CBD) notice announcing the requirement and that it reasonably believed its needs could be met by available local firms. Nine of the 12 firms submitted proposals in response to the CBD notice. Under these circumstances, DOE believes that the imposition of the geographical restriction was consistent with the Federal Acquisition Regulation (FAR) provisions at 48 C.F.R. § 36.602-1(a)(5) (1984) (Architect-Engineering Services: Selection Criteria).

This FAR provision provides that:

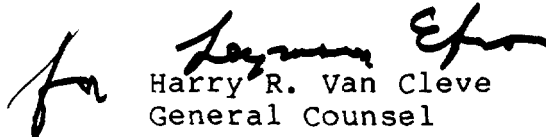
"Agencies shall evaluate each potential contractor in terms of its . . . location in the general geographical area of the project . . . ; provided that application of this criterion leaves an appropriate number of qualified firms given the size and nature of the project. . . ."

Thus, the regulation contemplates initial open competition and that the geographical location of an A/E firm should be used as a selection criterion where adequate competition exists within that location.

While DOE imposed the restriction as a prerequisite for consideration, under the circumstances here, we cannot conclude that it was inappropriate. The record shows that prior to issuing the CBD notice with the geographical restriction, DOE had qualification statements on file from 12 Richland area A/E firms which it determined capable of

performing the requirement. Nine of those Richland area A/E firms submitted proposals in response to the CBD notice and, thus, under the provisions of the regulation, contractor selection appropriately was restricted to that area. Further, while the protester argues that it would travel the approximately 150 miles to the Richland site to perform the requirement, DOE has explained that a local A/E firm is necessary to meet the agency's need that the firm be immediately available to confer with other design personnel at the Richland site to handle day-to-day or emergency design problems and to eliminate possible project delays. Bartow has neither alleged nor shown that this need is without a reasonable basis. See Leo Kanner Associates, B-194327, Nov. 5, 1979, 79-2 C.P.D. ¶ 318; Plattsburgh Laundry and Dry Cleaning Corp.; NuArt Cleaners, 54 Comp. Gen. 29 (1974), 74-2 C.P.D. ¶ 27.

Protest denied.

  
Harry R. Van Cleve  
General Counsel